

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DONALD MORRIS LEE,

Plaintiff,

v.

BRIER P.D. et al.,

Defendants.

CASE NO. C14-1994 MJP

ORDER ADOPTING R&R

THIS MATTER comes before the Court on Plaintiff's Objections (Dkt. No. 28) to Magistrate Judge Tsuchida's Report and Recommendation (Dkt. No. 23). Having reviewed the Objections, the Report and Recommendation, Plaintiff's supplementary Praecipe (Dkt. No. 29), and all related papers, the Court hereby ADOPTS the Report and Recommendation, DISMISSES the case without leave to amend but without prejudice, COUNTS the dismissal as a strike under 28 U.S.C. § 1915(g), and DENIES all pending motions as moot.

Plaintiff's objections to the Report and Recommendation primarily consist of case citations and conclusory allegations. Plaintiff does ask that any claims that are barred by Heck v. Humphrey, 512 U.S. 477, 487 (1994), be dismissed without prejudice. (Dkt. No. 28 at 1.) Since

1 the Report and Recommendation recommended dismissal without prejudice, Plaintiff was not
2 taking exception to the Report and Recommendation in this respect.

3 Plaintiff repeats his argument that judges are not immune from suit under narrow
4 circumstances outside the normal exercise of their jurisdiction, citing Mireles v. Waco, 502 U.S.
5 9 (1991). (Dkt. No. 28 at 3.) Because Plaintiff does not explain the circumstances giving rise to
6 his claims against judges or why those claims qualify for such an exception from the general
7 rule, his objection is not well taken.

8 Plaintiff argues the prison grievance process is “a travesty,” and that inmates are harassed
9 for using it. (Dkt. No. 28 at 5.) The Report and Recommendation explained that a retaliation
10 claim requires specific allegations about the prisoner’s protected conduct and the chilling effect
11 on the prisoner, among other elements. (See Dkt. No. 23 at 5 (citing Wood v. Beauclair, 692 F.3d
12 1041, 1051 (9th Cir. 2012)).) Because Plaintiff fails to point to specific conduct that he engaged
13 in and to describe the effect of any retaliation, this claim fails as well.

14 Plaintiff also argues his claims are not frivolous because they pertain to constitutional
15 issues. (Dkt. No. 28 at 3.) The Report and Recommendation did not recommend dismissal or a
16 28 U.S.C. § 1915(g) strike on the grounds of frivolity, but merely explained that Plaintiff’s
17 complaint failed to state a claim for relief.

18 Because the Court agrees Plaintiff fails to state a claim for which relief can be granted,
19 the Court adopts the Report and Recommendations in full.

20 The clerk is ordered to provide copies of this order to all counsel.

21 Dated this 18th day of June, 2015.

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23 

24 Marsha J. Pechman
Chief United States District Judge